

§ 1254.30

notecards should be returned to the research room attendant at the end of the day.

(e) The personal property of all researchers, including notes, electrostatic copies, typewriter cases, tape recorders, cameras, personal computers, and other personal property, will be inspected before removal from the research room. Guards and research room attendants may request that a member of the research room staff examine such personal items prior to their removal from the research room.

(f) Researchers may use NARA self-service copiers or authorized personal paper-to-paper copiers to copy documents in accordance with NARA document handling instructions and after review of the documents by the research room attendant to determine their suitability for copying. The director or the senior archivist on duty in the research room will review the determination of suitability if requested by the researcher. The following types of documents are not suitable for copying on a self-service or personal copier:

- (1) Bound archival volumes;
- (2) Documents fastened together by staples, clips, acco fasteners, rivets, or similar fasteners, where folding or bending the document may cause damage;
- (3) Documents larger than the glass copy plate of the copier;
- (4) Documents with uncanceled security classification markings;
- (5) Documents with legal restrictions on copying; and
- (6) Documents which, in the judgment of the research room attendant, are in poor physical condition or which may be subject to possible damage if copied.

[51 FR 31617, Sept. 4, 1986, as amended at 59 FR 29192, 29194, June 6, 1994]

Subpart C—Access to Unclassified Records and Donated Historical Materials

§ 1254.30 Archives.

The use of archives is subject to the restrictions prescribed by statute or Executive order or by the restrictions specified in writing in accordance with 44 U.S.C. 2108 by the agency from

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which the records were transferred. NARA will make available any reasonably segregable portion of a record after the restricted portion has been deleted. The restrictions are published in the “Guide to the National Archives of the United States,” and supplemented by restriction statements approved by the Archivist of the United States and set forth in part 1256 of this chapter. The Guide is available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. The Guide may also be consulted at the NARA research facilities listed in part 1253 of this chapter.

[54 FR 32069, Aug. 4, 1989]

§ 1254.32 FRC records.

Requests for access to records on deposit in Federal records centers shall be addressed directly to the appropriate agency or to the FRC director at the address shown in part 1253. The use of FRC records is subject to access rules prescribed by the agency from which the records were transferred. When the agency’s rules permit, NARA makes FRC records available to requesters. When access is precluded by these rules and restrictions, the FRC director will refer to the responsible agency the requests and any appeals for access, including those made under the Freedom of Information Act.

[40 FR 7925, Feb. 24, 1975. Redesignated at 50 FR 15723, Apr. 19, 1985]

§ 1254.34 Records of defunct agencies.

Access to archives and FRC records received from agencies which have ceased to exist without a successor in function are handled in accordance with §§ 1254.30 and 1254.50.

[44 FR 18496, Mar. 28, 1979. Redesignated at 50 FR 15723, Apr. 19, 1985]

§ 1254.35 Presidential records and Nixon Presidential materials.

Access to Presidential records transferred to NARA is governed by 36 CFR part 1270. Access to the Nixon Presidential materials is governed by 36 CFR part 1275.

[59 FR 29194, June 6, 1994]

§ 1254.36 Donated historical materials.

The public use of donated historical materials is subject to restrictions on their use and availability as stated in writing by the donors or depositors of such materials and other restrictions imposed by statute. (Researchers are encouraged to confer with the appropriate director or reference staff member on any question of copyright.) In addition, use is subject to all conditions specified by the Archivist of the United States for purposes of archival preservation.

[59 FR 29194, June 6, 1994]

§ 1254.38 Freedom of Information Act requests.

(a) *Applicability.* This section applies to Freedom of Information Act requests for unclassified and classified archives. This section does not apply to requests for FRC records or donated historical materials.

(b) *Definitions.*

Potentially confidential commercial information means records submitted to any agency by a submitter that may contain material exempt from release under 5 U.S.C. 552(b)(4) because disclosure could reasonably be expected to cause a submitter substantial competitive harm.

Submitter means any person or entity providing potentially confidential commercial information to an agency. The term *submitter* includes, but is not limited to, corporations, state governments, and foreign governments.

(c) *Requirements.* Requests for access to archives under the FOIA shall reasonably describe the records requested, shall be made in writing to the director of the appropriate NARA depository listed in part 1253 of this chapter or to the Assistant Archivist for the National Archives, and shall clearly indicate that the request is being made under the Act.

(d) *Processing time.* NARA shall inform requesters of the availability of records within 10 workdays after receiving a request, except when precluded from doing so by conditions as described in 5 U.S.C. 552a(6)(B), or by the need to consult with a submitter, as set forth in § 1254.39.

(e) *Denial of access.* Denials under the FOIA of access to archives are made by the appropriate director of a Presidential library or a regional archives or the Assistant Archivist for the National Archives, who, within 10 workdays, shall notify the requester of the reasons for the denial and of the procedures for appeal.

(f) *Appeals.* (1) A requester whose request for access is denied in whole or in part, or who receives a response that no responsive records were found and who considers the latter response as adverse in nature, may appeal that decision or finding within NARA. The appeal shall be in writing and addressed to the Deputy Archivist of the United States (ND), National Archives, Washington, DC 20408.

(2) The Deputy Archivist must receive an appeal no later than 35 calendar days after the date of the NARA letter of denial to be considered timely.

(3) The appeal letter shall include the words "Freedom of Information Act Appeal" on both the letter and the envelope, and the requester shall enclose with the appeal letter a copy of the initial request and the denial.

(4) In the appeal letter the requester shall briefly state the reasons why NARA should release the records, or, if no responsive records were found and the requester considers this to be an adverse determination, why the requester thinks that the search does not meet the requirements of the FOIA.

(5) The Deputy Archivist shall consult with the agency specifying the restriction, when appropriate, and make a determination within 20 workdays after the date of receipt by the Deputy Archivist of the appeal. If an extension is required, the Deputy Archivist shall notify the requester within 20 workdays from receipt of the request. Time extensions shall not exceed 10 workdays in the aggregate: either solely in the initial stage or solely in the appellate stage, or divided between them.

(6) If the determination is adverse in whole or in part, the Deputy Archivist shall notify the requester of the right to judicial review.

(7) Denials and appeals of denials of access to information under the FOIA exemption 552(b)(1), national security